IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3109 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

EKTA CONSUMERS CO. OPERATIVE STORES

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR HR PRAJAPATI for Petitioner No. 1

MR UR BHATT AGP for Respondent No. 1

NOTICE SERVED for Respondents No. 2-3

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 27/11/2001

ORAL JUDGEMENT

Rule.

2. Mr.H.R.Prajapati, learned Advocate appears for the petitioner. Mr.U.R.Bhatt, learned A.G.P. waives service of Rule. By consent of both the sides, the

matter is taken up for final disposal today.

3. The petitioner, a Co-operative Society registered under the Gujarat Co-operative Societies Act was holding licence being No.469/93 since 1993. By virtue of the said licence, the petitioner sold kerosene to the Ration Card holders attached with the shop of the petitioner.

4. On 08.12.1999, the Inspector of the Office of Food and Civil Supply Department, Mehsana visited the shop premises of the petitioner - Society and thereafter, upto 18.12.1999 various inspections were carried out. During the course of such inspections, the respondent-authorities found various irregularities and on basis of the same, a show-cause notice was issued to the petitioner on 28th February, 2000. Prior thereto the Collector and the District Magistrate, Mehsana had issued detention order on 31st December, 1999 against the President of the petitioner-Society under Section 3 of the P.B.M. Act. The petitioner replied to the said show-cause notice and the District Supply Officer, Mehsana after considering the same cancelled the licence of the petitioner and confiscated the total deposit by order dated 13rd April, 2000. The said order came to be confirmed in appeal by the Collector, Mehsana and thereafter, in revision by the Dy. Secretary, Food, Civil Supplies and Consumer Affairs Department, Gandhinagar. It is these orders which are challenged by the petitioner.

5. In view of the facts that the controversy is concluded by the decision of this Court rendered in case of Harnarayan Bhaiyalal Shahu Vs. State of Gujarat, S.C.A. No.7994 of 1998 rendered on 19.10.2000, it is not necessary to set out the contentions raised by both the sides. Suffice it to state that identical contentions are raised by both the sides.

6. For the reasons stated in the aforesaid decision of this Court, and there being no material on record to take a different view of the matter, the order dated 13rd April, 2000 passed by the District Supply Officer, Mehsana is required to be quashed and set aside. This application is accordingly allowed. The order dated 13rd April, 2000 (Annexure-'E'), the order in appeal dated 12th June, 2000 (Annexure-'H') and the order in revision dated 26th September, 2000 (Annexure-'J') are hereby quashed and set aside.

Rule is made absolute accordingly. There shall be no order as to costs.

(D.A.Mehta, J)

'Bhavesh'